

Remarks

Reconsideration of the above referenced application in view of the enclosed amendment and remarks is requested. Claim 20 has been amended to correct a minor informality. Pending claims 1-25 remain in the application.

ARGUMENT

Claims 1-25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-28 of USPN 6,990,577 to Autry (hereinafter, "Autry"). A terminal disclaimer is filed concurrently, thereby making this rejection moot.

Claims 1-25 are also rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-37 of co-pending U.S. Pat. Appn. No. 10/821,037, by the same authors (hereinafter, "the '037 appl."). This rejection is respectfully traversed as being improper and Claims 1-25 are believed allowable based on the following discussion.

Since the '037 appl. has not yet issued, it is improper to require a terminal disclaimer or to reject the claims based on an obviousness-type double patenting rejection. This rejection should have been *provisional*, contingent upon the issuance of the '037 appl. If the '037 appl. should issue before the present application, Applicants agree to file a terminal disclaimer to said patent. However, until such time, Claims 1-25 are in condition for immediate allowance and should be permitted to issue at the earliest possible time.

Applicants respectfully request the Examiner to permit this application to issue immediately, or to present a subsequent Office Action requiring a terminal disclaimer to an issued patent (i.e., when the '037 appl. issues as a patent). Until such time as the '037 appl. issues as a patent, the present application is, by right, in condition for allowance.

CONCLUSION

In view of the foregoing, Claims 1-25 are all in condition for allowance. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (703) 633-6845. Early issuance of Notice of Allowance is respectfully requested. Please charge any shortage of fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-0221 and please credit any excess fees to such account.

Respectfully submitted,

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